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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,505	02/13/2004	Qiwei He	3075.NWN	8910

7590 11/17/2011
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EXAMINER

MULLIS, JEFFREY C

ART UNIT	PAPER NUMBER
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1765

MAIL DATE	DELIVERY MODE
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11/17/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/779,505	Applicant(s) HE ET AL.	
	Examiner JEFFREY MULLIS	Art Unit 1765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1,4 and 6-12 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1,4 and 6-12 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9-6-11; 10-14-11</u> . | 6) <input type="checkbox"/> Other: ____. |

Claims 4 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The SIB percentage of claim 4 lacks antecedent basis in claim 1. The “said linear block copolymer” of claim 6 lacks antecedent basis in claim 1.

Claim 4 is rejected under 35 U.S.C. 112, 4th paragraph, as being of improper dependent form for failing to further limit the subject matter of the claim upon which it depends, or for failing to include all the limitations of the claim upon which it depends. The percentage range in the dependent claim is broader than the independent claim.

. Applicant may cancel the claim(s), amend the claim(s) to place the claim(s) in proper dependent form, rewrite the claim(s) in independent form, or present a sufficient showing that the dependent claim(s) complies with the statutory requirements.

Claims 1, 4 and 6-12 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Diehl et al. (US 5,292,819).

Diehl disclose applicants radial block copolymer compositions in Examples 1-4 of the Table in column 14. Note that waxes may be added at column 15, lines 55-62 and that the material may be used to produce diapers at the paragraph bridging columns 5 and 6. Note especially example 1 for the presence of 22% “diblock building block” as in applicants “SIB”. Note also a diblock molecular weight of $18,000 + 22,800 = 40,800$. With

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regard to applicants limitation of a "linear triblock copolymer" as well as claim 6, the phrase "up to about 6 wt %" includes zero and therefore it is immaterial whether or not use of a linear triblock copolymer is disclosed by the reference. Nonetheless it is assumed that at least a very small amount of diarm coupled polymer would be inherently produced by the process given the known inefficiency of coupling of lithium terminated living polymer chains and further that no chemical reaction is 100% efficient..

When the reference discloses all the limitations of a claim except a property or function, and the Examiner cannot determine whether or not the reference inherently possesses properties which anticipate or render obvious the claimed invention, basis exists for shifting the burden of proof to applicant. Note In re Fitzgerald et al. 619 F. 2d 67, 70, 205 USPQ 594, 596, (CCPA 1980). See MPEP § 2112-2112.02.

Applicant's arguments filed 9-6-11 have been fully considered but they are not persuasive. It is the position of the examiner that dicoupled PS-PI-PB reads on applicants triblock. .There would not be expected to be an amount of this material greater than 6% as use of butadiene chain ends is disclosed by Diehl to increase the efficiency of coupling although stillnot 100% efficient. Note column 5, lines 5-10 of Diehl in this regard.

Any inquiry concerning this communication should be directed to JEFFREY MULLIS M-F, 9-5 pm at telephone number (571)272-1075.

Jeffrey C. Mullis
Primary Examiner
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JCM

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/Jeffrey C. Mullis/

Primary Examiner, Art Unit 1765